All Aboard Ohio
Testimony to U.S. House T&I Committee
Field Hearing
Columbus, Ohio
February 19, 2011

Introduction:

Dear Chairman Mica, thank you for this opportunity to provide input to the Transportation & Infrastructure Committee's deliberations on the future of transportation in America. All Aboard Ohio is Ohio's only statewide organization of passenger rail and transit users – their numbers exceed the passengers using the state's commercial airports each day. As such, we are dedicated to advocating the improvement of rail and transit services as part of a balanced transportation system for Ohio that provides viable mobility choices, strengthens existing communities and protects the environment. We are grateful to you for seeking input on a subject near and dear to All Aboard Ohio – to accelerate transportation project delivery, identify creative financing options, and increase private-sector investment in transportation projects. This is a subject we have thought about for a long time. Given the increasing financial constraints to our transportation system, All Aboard Ohio often muses that if all transportation modes were privately owned, operated and financed from the infrastructure on up, your committee might not need to seek to testimony today. But then we might have far fewer highways and airports, too.

Problem statement:

Public policies promoting infrastructure quality are the key to the viability of any mode of transportation; our testimony will focus on this issue as it relates to rail. There are three different ways for government to promote transportation modes and projects: direct financial outlays (grants and loans), tax credits and outright ownership of transportation infrastructure.

The passenger and freight rail industry is unlike any other mode of transportation as the carriers must own and be responsible for their infrastructure and rights of way. That places a much higher fixed-cost burden on rail carriers (including Amtrak and transit agencies), compared to other modes where carriers can treat the public infrastructure they use more so as a variable cost. Rail carriers must pay for their own right-of-way policing and security, maintenance, dispatching and traffic management, and liability insurance. By comparison, for highway users and airlines, those costs are largely externalized onto general revenue taxpayers. Any public policy changes must acknowledge this unique situation in the rail industry.

For rail freight carriers, their infrastructure must be a profit center for them while having to shoulder industrial-rate property taxes and finance capital improvements through private capital markets rather than government trust funds (such as with highways and aviation). That means having to incur market-rate interest payments and profit margins of the financial institutions. With such comparatively punitive policies against rail, the rail industry has concentrated as much traffic as possible on as few rail corridors as possible which limits their ability to accommodate growth, including intercity and regional commuter passenger rail services. It's amazing that we have any railroad infrastructure left in the United States.

For passenger rail carriers, there is a tendency to blame Amtrak and transit agencies for the low market share of passenger rail in America. Rather, Amtrak and these local, regional or state transit agencies aren't the problem. They are the creations of public policies which have failed to acknowledge the rail carriers' unique infrastructure ownership and all of the internalized costs of security, liability, maintenance, traffic dispatching which fall solely onto them. Those costs are covered by year-to-year subsidies to compete with highways and aviation which have many of their right of way costs externalized onto taxpayers. For passenger rail carriers, their only "feedback loop" financing mechanism is fares, which must be kept artificially low to compete with the externalized cost structures of highways and aviation. Rail needs unique financing tools, and the private sector can and should be a much larger player in this regard – but only if public policies are changed to allow them.

Recommendations:

Among the three different ways for government to promote transportation modes and projects – direct financial outlays (grants and loans), tax credits and outright ownership of transportation infrastructure – All Aboard Ohio favors tax credits for a simple reason. It is the public support funding mechanism which is the least costly to taxpayers to provide. For existing private sector rail companies, such as freight railroads and high-speed rail consortiums, it can and should be as simple as their accounting departments taking a tax credit when they file their federal corporate income tax. It requires little or no increase in the federal bureaucracy, is not subject to the provisions of the National Environmental Policy Act, and thus allows federal investment incentives to move at the speed of business.

The following proposed federal corporate income tax credits, typically 80 percent of documented expenditures (consistent with federal grant programs for highways, aviation, transit and intercity passenger rail), for the rail industry are divided into segments involving freight modes, intercity/high-speed passenger rail and local/regional transit. To ensure the federal treasury receives revenue offsets and to promote domestic manufacturing, "Buy American" provisions must apply to all materials and products acquired for tax-credit financed projects:

Freight rail

<u>Right of way capital improvements</u> – Currently, under Sec. 45G of the U.S. tax code, short-line and regional freight railroads may take a 50 percent federal income tax credit, based on the route mileage they own or lease, for the value of capital expenditures on

fixed facilities. Since all U.S. railroads do not generate adequate revenue to earn their cost of capital, All Aboard Ohio urges that this capital investment tax credit be extended to all railroads, not just short-line and regional railroads.

<u>Signalization modernization</u> – Owners of railroad right of way which host hazardous material shipments and any kind of passenger rail services are required by federal law (PL 110-432, enacted in 2008) to have Positive Train Control traffic management systems installed by Dec. 31, 2015. Because the capital investment could be as large as $10 billion nationally, railroads are having difficultly affording this unfunded mandate. All Aboard Ohio urges that all Positive Train Control capital investments be eligible for an 80 percent federal income tax credit.

<u>Public Benefit Deduction</u> – Although railroads may not wish to change their incorporation filing to be considered as a Public Benefit Corporation, they should be rewarded for accommodating or providing services that are of a benefit to the public, even though they might not be of benefit to the railroad company's stockholders. These activities should include accommodating:

- electric utility lines that transmit power from no-carbon emission electricity generating sites (wind farms, solar power fields, hydroelectric stations, geothermal, etc), with an 80 percent federal income tax credit for all railroad company capital contributions;
- passenger transportation access to railroad rights of way including for hiking/biking trails, intercity/high-speed rail, local or regional rail transit, etc, with an 80 percent federal income tax credit for all incremental railroad company operating costs (insurance, security, dispatching, maintenance, etc) incurred by accommodating passenger transportation activities;
- railbanking that preserves underutilized or unused railroad corridors in as-is condition for future rail transportation, with a 100 percent federal income tax credit for all railroad company operating costs (insurance, security, maintenance, etc) with eligibility expiring after five years.

Intercity/high-speed passenger rail

Capital improvements – Currently, Amtrak, states, state-chartered agencies or associations of states may apply for an 80 percent federal grant to pay for intercity or high-speed rail capital costs. Unless any of these public entities are pursuing passenger rail development, there is no motivation for the private sector to become involved. As with Sec. 45G of the U.S. tax code, short-line and regional freight railroads can take a federal income tax credit for capital expenditures. There is no similar provision for the private sector wishing to make direct capital investments into intercity or high-speed passenger rail. Thus, All Aboard Ohio urges that an 80 percent federal income tax credit be extended to corporations making direct capital expenditures and interest payments on capital expenditures into fixed facilities, or on lease payments for rolling stock.

Electrification – Since railroad vehicles use fixed guideways, they can easily be powered by electricity from overhead wires or third rails. To promote the expansion, restoration and new construction of infrastructure to supply electricity as a source of motive power to trains and public transit vehicles, this provision would give companies (including electric utilities) an 80 percent federal income tax credit based on the construction costs of such infrastructure. This provision is critical if this nation is serious about weaning itself from petroleum.

Local/regional transit

Capital improvements – Increasingly, the private sector is getting more involved in the development and operation of fixed-guideway transit services (bus rapid transit, light rail, heavy rail, commuter/regional rail, etc.) by capturing the added value created by the public investment. However, this still requires long planning timelines associated with the federal granting process as proscribed by the National Environmental Policy Act. Unless a private company is incredibly patient or taxpayers are willing to bear the entire costs of the planning process, there is no motivation for the private sector to become involved. Thus, All Aboard Ohio urges that an 80 percent federal income tax credit be extended to corporations making direct capital expenditures and interest payments on capital expenditures into fixed facilities, or on lease payments for rolling stock relating to fixed guideway transit projects.

Expand service partnerships with higher education

Colleges and universities are becoming increasingly specialized in their curriculum offerings through the creation of Centers of Excellence. Specialization has become so prevalent that if a student needs broader coursework for their field of study, they often must attend another school on the other side of town, or even on the other side of the state via “distant learning.” There are limitations on what Internet technologies can do as hands-on experiences are essential. In states like Ohio, which spends 97 percent of all transportation tax dollars on roads and highways, there is usually no other way of getting around than by car. Many students cannot or will not own a car.

So All Aboard Ohio had joined with the Ohio Higher Education Rail Network (OHERN) to advocate for university partnerships with public transportation service providers to provide buses and trains linking corridors with large numbers of students attending institutions of higher learning. The partnership involves having part of the student’s tuition spent to provide a travel pass on the bus or rail service. The cost is equivalent to one textbook per semester – an expense far less than the cost of driving several times per semester between distant-learning universities, work-study sites and, of course, home.

In the Midwest and Northeast where states are physically smaller, travel to/from distant learning sites are often across state lines, requiring federal programs and funding that enable expanded interstate public transportation services in conjunction with universities and transportation service providers. We urge the authorization of such federal programs and funding to implement OHERN’s vision.

Expand railroad safety and technology research

All Aboard Ohio believes that railroads, like any other business, must have the most innovative technologies, safety equipment and facilities to remain viable and competitive. While the airlines and automakers receive significant research benefits from military, aerospace and energy research by the federal government, railroads often do not receive public research dollars at the same magnitude as their competitors.

Thus, All Aboard Ohio recommends that the U.S. departments of Transportation, Energy and Defense create joint programs that increase federal funding for research and implementation of locomotive fuel-cell technologies, security enhancement technologies and practices that enhance operating efficiencies. Also, rail industry suppliers should receive a 50 percent federal income tax credit based on the funding they commit to research of new technologies involving motive power, signal systems, safety systems, materials and other railroad-related technologies.

Consider that, between the U.S. Department of Defense and Federal Railroad Administration, the rail industry receives between $100 million and $150 million per year for research and safety grants and programs. By comparison, DOD and NASA annually provide to aerospace manufacturers billions of dollars worth of research funding that offers technology transfer benefits to commercial aviation.

Simplify the RRIF loan program

Since 1998, the Federal Railroad Administration has offered a $35 billion Railroad Rehabilitation and Improvement Financing (RRIF) low-interest loan program for railroad infrastructure improvements, including acquiring or improving terminals, rail facilities, track, bridges, buildings, shops and capital equipment.

Unfortunately, the loan fund has seen little use because railroads must show proof of at least one commercial loan denial, collateral recovery of 100 percent principal and interest, and completion of planning documentation subject to the National Environmental Policy Act that can add years and huge expenses to projects. All Aboard Ohio urges that this program be amended to offer no-interest loans, eliminate loan rankings based on purpose, be aligned more closely with the fiscal soundness loan award policies of private lenders, and require only NEPA categorical exclusion documentation for all RRIF loans.

Discussion of all recommendations:

There are a number of benefits that result from offering federal income tax credits, not the least of which is expanding the private sector's involvement in transportation infrastructure improvements, safety and expanded services. These are some of the benefits:

- No new federal revenue source(s) would need to be identified and implemented;
- Federal income tax revenues would not diminish from the base year amount, and would increase as a result of additional business activity by private lenders, manufacturers and other domestic rail industry suppliers, as well as from spin-off economic development and multipliers;
- No new or expanded government bureaucracy would be needed to administer this capital investment program, as railroads already have the financial, engineering and administrative staff and expertise;
- Railroads would have to maintain the rights of way they build or expand, ensuring that they would not abuse the tax credits;
- Railroads should be required to pay construction bids financed by a tax credit no later than one year after receiving the tax credit to guard against their abuse.

Conclusion:

If All Aboard Ohio's recommendations were enacted, the whims of the year-to-year federal budgetary process would no longer dictate the fate of the nation's rail system. Market forces would drive the federal benefits which passenger rail services would receive, not the other way around. Direct operating subsidies would no longer be required. Freight railroads would have the fiscal motivation and wherewithal to build the necessary infrastructure and have the means to run passenger trains while still enhancing shareholder value. Cities and towns would have more transportation choices, including those powered by electricity that weans the nation off petroleum. Consortiums of railway contractors, electric utilities and others could have sufficient tax incentives to develop true high-speed rail routes.

It is not an overstatement to suggest that, if the interdependent features proposed in this package were implemented, it would transform the U.S. railroad industry in a decidedly powerful and positive way. After its deregulation 30 years ago, the rail industry has made great strides to halt its pre-1980 decline, by improving market shares, increasing efficiencies and improving safety. Unfortunately, public policy has kept the intercity passenger rail system in survival mode since Amtrak began in 1971. The low-cost, market-based, high-impact proposals in this report would allow the rail industry to use its inherent strengths to surge ahead and take the next logical steps for both passenger and freight. And thus, the unique situation of carriers’ responsibility over their infrastructure could be turned from an albatross into a true asset.

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